

HOUSE SUBSTITUTE
FOR
HOUSE COMMITTEE SUBSTITUTE
FOR
SENATE SUBSTITUTE
FOR
SENATE BILL NO. 1000
AN ACT

To repeal sections 650.050, 650.052, 650.055, and 650.100, RSMo, and to enact in lieu thereof five new sections relating to a DNA profiling system, with penalty provisions and an effective date for certain sections.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,
AS FOLLOWS:

1 Section A. Sections 650.050, 650.052, 650.055, and 650.100,
2 RSMo, are repealed and five new sections enacted in lieu thereof,
3 to be known as sections 488.5400, 650.050, 650.052, 650.055, and
4 650.100, to read as follows:

5 488.5400. 1. In addition to any other surcharges
6 authorized by statute, the clerk of each court of this state
7 shall collect the surcharges provided for in subsection 2 of this
8 section.

9 2. A surcharge of thirty dollars shall be assessed as costs
10 in each circuit court proceeding filed within this state in all
11 criminal cases in which the defendant pleads guilty or nolo
12 contendere to or is convicted of a felony. A surcharge of
13 fifteen dollars shall be assessed as costs in each court
14 proceeding filed within this state in all criminal cases in which

2 the defendant pleads guilty or nolo contendere to or is convicted
3 of a misdemeanor.

4 3. Notwithstanding any other provisions of law, the moneys
5 collected by clerks of the courts pursuant to the provisions of
6 subsection 1 of this section shall be collected and disbursed in
7 accordance with section 488.010 to 488.020, and shall be payable
8 to the state treasurer.

9 4. The state treasurer shall deposit such moneys or other
10 gifts, grants, or monies received on a monthly basis into the DNA
11 profiling analysis fund, which is hereby created in the state
12 treasury. The fund shall be administered by the department of
13 public safety. The moneys deposited into the DNA profiling
14 analysis fund shall be used only for DNA profiling analysis of
15 convicted offender samples performed to fulfill the purposes of
16 the DNA profiling system pursuant to section 650.052, RSMo.

17 5. The provisions of subsection 1 and 2 of this section
18 shall expire on August 28, 2006.

19 650.050. 1. The Missouri department of public safety
20 shall develop and establish a "DNA Profiling System", referred to
21 in sections 650.050 to 650.057 as the system to [support criminal
22 justice services in the local communities throughout this state
23 in DNA identification] assist federal, state, and local criminal
24 justice and law enforcement agencies in the identification,
25 investigation, and prosecution of individuals as well as the
26 identification of missing or unidentified persons. This
27 [establishment] DNA profiling system shall [be accomplished
28 through consultation with the Kansas City, Missouri regional
29 crime laboratory, Missouri state highway patrol crime laboratory,

2 St. Louis, Missouri metropolitan crime laboratory, St. Louis
3 county crime laboratory, southeast Missouri regional crime
4 laboratory, Springfield regional crime laboratory, and the
5 Missouri Southern State College police academy regional crime
6 lab] consist of qualified Missouri forensic laboratories approved
7 by the Federal Bureau of Investigation. Missouri state highway
8 patrol crime laboratory shall be the administrator of the state's
9 DNA index system.

10 2. The DNA profiling system as established in this section
11 shall be compatible with that used by the Federal Bureau of
12 Investigation to ensure that DNA records are fully exchangeable
13 between DNA laboratories and that quality assurance standards
14 issued by the director of the Federal Bureau of Investigations
15 are applied and performed.

16 650.052. 1. The state's DNA profiling system shall:

17 (1) Assist federal, state and local criminal justice and
18 law enforcement agencies in the [putative] identification,
19 detection or exclusion of individuals who are subjects of the
20 investigation or prosecution of [violent or sex-related crime]
21 criminal offenses in which biological evidence is recovered [from
22 the crime scene] or obtained; and

23 (2) If personally identifiable information is removed,
24 support development of forensic validation studies, forensic
25 protocols, and the establishment and maintenance of a population
26 statistics database, [when personal identifying information is
27 removed] for federal, state, or local crime laboratories of law
28 enforcement agencies; and

29 (3) [Support identification research and protocol

development of forensic DNA analysis methods; and

(4) For quality control purposes; or

(5)] Assist in the recovery or identification of human remains from mass disasters, or for other humanitarian purposes, including identification of [living] missing persons.

2. The Missouri state highway patrol shall act as the central repository for the DNA profiling system and shall [coordinate with the Federal Bureau of Investigation on the national database program] collaborate with the Federal Bureau of Investigation and other criminal justice agencies relating to the state's participation in CODIS and the National DNA Index System or in any DNA database.

3. The Missouri state highway patrol may promulgate rules and regulations to implement the provisions of sections 650.050 to 650.100 in accordance with Federal Bureau of Investigation recommendations for the form and manner of collection of blood or other scientifically accepted biological samples and other procedures for the operation of sections 650.050 to 650.057. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

4. The Missouri state highway patrol shall provide the necessary components for collection of the convicted offender's biological samples. For qualified offenders as defined by section 650.055 who are under custody and control of the department of corrections, the DNA sample collection shall be performed by the department of corrections and the division of probation and parole, or their authorized designee or contracted

2 third party. For qualified offenders as defined by section
3 650.055 who are under custody and control of a county jail, the
4 DNA sample collections shall be performed by the county jail or
5 its authorized designee or contracted third party. The specimens
6 shall thereafter be forwarded to the Missouri state highway
7 patrol crime laboratory. Any DNA profiling analysis or
8 collection of DNA samples by the state or any county performed
9 pursuant to sections 650.050 to 650.100 shall be subject to
10 appropriations.

11 5. The state's participating forensic DNA laboratories
12 shall meet quality assurance standards specified by the Missouri
13 state highway patrol crime laboratory and the Federal Bureau of
14 Investigation to ensure quality DNA identification records
15 submitted to the central repository.

16 6. The state's participating forensic DNA laboratories may
17 provide the system for identification purposes to criminal
18 justice, law enforcement officials and prosecutors in the
19 preparation and utilization of DNA evidence for presentation in
20 court and provide expert testimony in court on DNA evidentiary
21 issues.

22 7. The department of public safety shall have the authority
23 to promulgate rules and regulations to carry out the provisions
24 of sections 650.050 to 650.100. Any rule or portion of a rule,
25 as that term is defined in section 536.010, RSMo, that is created
26 under the authority delegated in this section shall become
27 effective only if it complies with and is subject to all of the
28 provisions of chapter 536, RSMo, and, if applicable, section
29 536.028, RSMo. This section and chapter 536, RSMo, are

2 nonseverable and if any of the powers vested with the general
3 assembly pursuant to chapter 536, RSMo, to review, to delay the
4 effective date, or to disapprove and annul a rule are
5 subsequently held unconstitutional, then the grant of rulemaking
6 authority and any rule proposed or adopted after August 28, 2004,
7 shall be invalid and void.

8 650.055. 1. Every individual who pleads guilty or nolo
9 contendere to or is convicted in a Missouri circuit court, of a
10 felony[, defined as a violent offense under chapter 565, RSMo,]
11 or [as a sex] any offense under chapter 566, RSMo, [excluding
12 sections 566.010 and 566.020, RSMo,] shall have a blood or
13 scientifically accepted biological sample collected for purposes
14 of DNA profiling analysis:

15 (1) Upon entering the department of [correction's]
16 corrections reception and diagnostic centers; or

17 (2) Before release from a county jail or detention
18 facility, state correctional facility or any other detention
19 facility or institution, or any mental health facility if
20 committed as a sexually violent predator pursuant to sections
21 632.480 to 632.513, RSMo; or

22 (3) When the state accepts a person from another state
23 under any interstate compact, or under any other reciprocal
24 agreement with any county, state, or federal agency, or any other
25 provision of law, whether or not the person is confined or
26 released, the acceptance is conditional on the person providing a
27 DNA sample if the person was convicted of, pleaded guilty to, or
28 pleaded nolo contendere to an offense in any other jurisdiction
29 which would be considered a qualifying offense as defined in this

section if committed in this state, or if the person was convicted of, pleaded guilty to, or pleaded nolo contendere to any equivalent offense in any other jurisdiction; or

(4) If such individual is under the jurisdiction of the department of corrections [on or after August 28, 1996]. Such jurisdiction includes persons currently incarcerated, persons on probation, as defined in section 217.650, RSMo, and on parole, as also defined in section 217.650, RSMo.

2. The Missouri state highway patrol and department of corrections shall be responsible for ensuring adherence to the law. Any person required to provide a DNA sample pursuant to this section shall be required to provide such sample, without the right of refusal, at a collection site designated by the Missouri state highway patrol and the department of corrections. Authorized personnel collecting or assisting in the collection of samples shall not be liable in any civil or criminal action when the act is performed in a reasonable manner. Such force may be used as necessary to the effectual carrying out and application of such processes and operations. The enforcement of these provisions by the authorities in charge of state correctional institutions and others having custody [of] or jurisdiction over those who have been convicted of [the], pleaded guilty to, or pleaded nolo contendere to felony offenses which shall not be set aside or reversed, is hereby made mandatory. The board of probation or parole shall recommend that an individual who refuses to provide a DNA sample have his or her probation or parole revoked. In the event that a person's DNA sample is not adequate for any reason, the person shall provide another sample

2 for analysis.

3 3. The procedure and rules for the collection, analysis,
4 storage, expungement, use of DNA database records and privacy
5 concerns shall not conflict with procedures and rules applicable
6 to the Missouri DNA profiling system and the Federal Bureau of
7 Investigation's DNA data bank system.

8 4. Unauthorized uses or dissemination of individually
9 identifiable DNA information in a database for purposes other
10 than criminal justice or law enforcement is a class A
11 misdemeanor.

12 5. Implementation of section 650.050 and this section shall
13 be subject to future appropriations to keep Missouri's DNA system
14 compatible with the Federal Bureau of Investigation's DNA data
15 bank system.

16 6. All DNA records and biological materials retained in the
17 DNA profiling system are considered closed records pursuant to
18 chapter 610, RSMo. All records containing any information held
19 or maintained by any person or by any agency, department, or
20 political subdivision of the state concerning an individual's DNA
21 profile shall be strictly confidential and shall not be
22 disclosed, except to:

23 (1) Peace officers, as defined in section 590.010, RSMo,
24 and other employees of law enforcement agencies who need to
25 obtain such records to perform their public duties;

26 (2) The attorney general or any assistant attorneys general
27 acting on his or her behalf, as defined in chapter 27, RSMo;

28 (3) Prosecuting attorneys or circuit attorneys as defined
29 in chapter 56, RSMo, and their employees who need to obtain such

2 records to perform their public duties; or

3 (4) Associate circuit judges, circuit judges, judges of the
4 courts of appeals, supreme court judges, and their employees who
5 need to obtain such records to perform their public duties.

6 7. Any person who obtains records pursuant to the
7 provisions of this section shall use such records only for
8 investigative and prosecutorial purposes, including, but not
9 limited to use at any criminal trial, hearing, or proceeding; or
10 for law enforcement identification purposes, including
11 identification of human remains. Such records shall be
12 considered strictly confidential and shall only be released as
13 authorized by this section.

14 8. An individual may request expungement of his or her DNA
15 sample and DNA profile through the court issuing the reversal or
16 dismissal. A certified copy of the court order establishing that
17 such conviction has been reversed or guilty plea or plea of nolo
18 contendere has been set aside shall be sent to the Missouri state
19 highway patrol crime laboratory. Upon receipt of the court
20 order, the laboratory will determine that the requesting
21 individual has no other qualifying offense as a result of any
22 separate plea or conviction prior to expungement.

23 (1) A person whose DNA record or DNA profile has been
24 included in the state DNA database in accordance with this act
25 may request expungement on the grounds that the conviction has
26 been reversed, or the guilty plea or plea of nolo contendere on
27 which the authority for including that person's DNA record or DNA
28 profile was based has been set aside.

29 (2) Upon receipt of a written request for expungement, a

2 certified copy of the final court order reversing the conviction
3 or setting aside the plea and any other information necessary to
4 ascertain the validity of the request, the Missouri state highway
5 patrol crime laboratory shall expunge all DNA records and
6 identifiable information in the database pertaining to the person
7 and destroy the DNA sample of the person, unless the Missouri
8 state highway patrol determines that the person is otherwise
9 obligated to submit a DNA sample. Within thirty days after the
10 receipt of the court order, the Missouri state highway patrol
11 shall notify the individual that it has expunged his or her DNA
12 sample and DNA profile, or the basis for its determination that
13 the person is otherwise obligated to submit a DNA sample.

14 (3) The Missouri state highway patrol is not required to
15 destroy any item of physical evidence obtained from a DNA sample
16 if evidence relating to another person would thereby be
17 destroyed.

18 (4) Any identification, warrant, arrest, or evidentiary use
19 of a DNA match derived from the database shall not be excluded or
20 suppressed from evidence, nor shall any conviction be invalidated
21 or reversed or plea set aside due to the failure to expunge or a
22 delay in expunging DNA records.

23 650.100. The following words shall have the following
24 meanings unless a different meaning clearly appears from the
25 context:

26 (1) "CODIS", the Federal Bureau of Investigation's Combined
27 DNA Index System that allows the storage and exchange of DNA
28 records submitted by federal, state, and local DNA crime
29 laboratories. The term "CODIS" includes the National DNA Index

System administered and operated by the Federal Bureau of Investigation;

(2) "Crime laboratories" [means], those crime laboratories existing on September 28, 1979, in certain cities in this state and which have at least once prior to September 28, 1979, received funding through the Missouri council on criminal justice, and such other crime laboratories that may be created to serve specified regions of the state as determined by the director of the department of public safety;

[(2)] (3) "Department" [means], the Missouri department of public safety;

(4) "DNA", deoxyribonucleic acid. DNA is located in the cells and provides an individual's personal genetic blueprint. DNA encodes genetic information that is the basis of human heredity and forensic identification;

(5) "DNA profile", refers to the collective results of all DNA identification analyses on an individual's DNA sample;

(6) "DNA record", the DNA identification information stored in the state DNA database or CODIS. The DNA record is the result obtained from the DNA analysis. The DNA record is comprised of the characteristics of a DNA sample, which are of value in establishing the identity of individuals;

(7) "DNA sample", a biological sample provided by any person with respect to offenses covered by section 650.055 or submitted to the Missouri state highway patrol crime laboratory pursuant to sections 650.050 to 650.100 for analysis or storage or both;

[(3)] (8) "Local funds" [means], any funds not provided by

2 the federal government.

3 Section B. The repeal and reenactment of sections 650.050,
4 650.052, 650.055, and 650.100 of this act shall become effective
5 January 1, 2005.